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The inventive concept according to claim 1 of conjugating a prokaryotic transport mediator with a PNA which inhibits the transcription of a prokaryotic gene is novel and non-obvious. Therefore, all embodiments that fall under the scope of the technical feature of "a transport mediator penetrating the prokaryotic cell membrane" fulfill the criteria of unity of the invention.

Accordingly, the peptides recited in claim 5 are encompassed by the single general inventive concept of the application, because each peptide could be substituted one for the other, inasmuch as being a transport mediator penetrating the prokaryotic cell membrane is a common property of all claimed phage-holin peptides.

Further, the peptides recited in claim 5 meet the criteria according to the guidelines in Section (f)(i)(a) of Annex B of the PCT Administrative Instructions. They are of similar nature, since:

- all peptides have the common property of being transport mediators penetrating the prokaryotic cell membrane; and
- (B)(2) all peptides belong to the class of phage-holin peptides.

(It is pointed out that according to the guidelines, the presence of a common structure, i.e., criterion (B)(1) is not necessary, when the alternatives belong to the same class of compounds.)

The Examiner asserts that the peptides recited in claim 5 are patentably distinct, because they may not possess the same transport capabilities. However, a particular transport capability is not a technical feature of the present invention - the subject-matter of claim 1 that embodies the general inventive concept of the present application is not limited to a particular transport capability. As long as the peptide is capable of penetrating a prokaryotic cell membrane, it has the property required of the transport mediator according to claim 1 and is within the scope of the subject-matter of claim 1.

It again is pointed out that the phage-holin peptides recited in claim 5 share the common special technical feature of being transport peptides. The Examiner has acknowledged that each peptide can be used as a transport peptide. A particular transport capability is neither a technical feature

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of the present invention nor is the claimed subject-matter limited thereto. The invention can be carried out with each of the claimed phage-holin peptides conjugated to a PNA.

It therefore is respectfully requested that the restriction requirement be withdrawn.

Furthermore, the Examiner has requested a restriction between a product (Group I) and a method of treatment (Group II). The Examiner has not explained why there is no single general inventive concept linking both groups; indeed, both groups appear intimately related in inventive concept, since the method of treatment of Group II is limited to the use of the product of Group I. Accordingly, both groups share the special technical feature of the conjugate as recited in claim 1 and, thus, fully satisfy the criteria of unity of the invention.

For all the foregoing reasons, it is requested that the restriction requirement be withdrawn.

If despite the foregoing, the restriction requirement is maintained, it is requested that the Group II claims be rejoined with the Group I claims upon identification of allowable subject matter in the Group I claims, under the provisions of MPEP 821.04.

It therefore is requested that prosecution of this application proceed in accordance with the foregoing.

Respectfully submitted,



Steven J. Hultquist
Reg. No. 28,021
Attorney for Applicants

INTELLECTUAL PROPERTY/
TECHNOLOGY LAW
Phone: (919) 419-9350
Fax: (919) 419-9354
Attorney File No.: 4121-170

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